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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Final report to the Commission on Human Rights on the situation of human rights in El Salvador, submitted by Mr. José Antonio Pastor Ridruejo, in pursuance of the mandate conferred by Commission resolution 1989/68

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INTRODUCTION

1. This report has been prepared pursuant to resolution 1989/68 of the Commission on Human Rights. It refers to the situation of human rights in El Salvador during 1989 and the first few weeks of 1990, although it must obviously be read in the light of the reports submitted by the Special Representative since 1981. The Special Representative is grateful for the co-operation extended to him in discharging his mandate by the Government of El Salvador and other Governments, the FMLN, international and non-governmental organizations, and other institutions and individuals.

2. By letter of 7 June 1989, the Special Representative informed the Government of El Salvador that he wished to visit the country again from 1 to 7 October 1989. The Government agreed that the visit should take place from 8 to 15 October.

3. During his stay in El Salvador, the Special Representative met: Mr. Alfredo Cristiani, the Constitutional President of the Republic; senior officials of the legislative and judicial branches; generals, chiefs and officers of the armed forces and security forces; and various ministers and other officials. He held conversations with opposition leaders (Democracia Cristiana (Christian Democrat Party) and Convergencia Democrática (Democratic Convergence)). At the offices of Legal Protection (Tutela Legal), he interviewed a large number of witnesses introduced by this and other non-governmental humanitarian organizations, and received extensive oral and written information from these organizations and from peasant and trade union movements. He interviewed independent persons, and visited the village of Tenancingo, where he talked with residents. He also held interviews with representatives of the Farabundo Martí National Liberation Front (FMLN). Since the submission of his first report to the General Assembly, the Special Representative has continued to receive copious information from all kinds of sources on the situation of human rights in the Republic of El Salvador.

I. OVERALL POLITICAL SITUATION

4. The armed conflict between the armed forces and the FMLN guerrilla organizations continued in El Salvador in 1989, although this situation did not hinder the electoral process envisaged in the 1983 Constitution. As widely reported, the elections for the office of President of the Republic were held on 19 March 1989. In a press release dated 8 March, the FMLN urged voters to boycott the elections and imposed a total ban on both public and private transport, 1/ warning citizens that they should not leave their homes after 7 p.m. On the day before the elections, the FMLN threw a bomb at a military vehicle at the central market in San Salvador, killing one soldier and one civilian. And in the early morning of election day, the FMLN launched a general offensive against military installations throughout the country and set fire to buses, taxis and private vehicles. The response by the armed forces led to the death of two journalists on the same day (a photographer and a television cameraman, both Salvadorian), and a Dutch journalist was shot in the cross-fire between the FMLN and the army. 2/ The Special Representative has received information that the armed forces arrested a soldier involved in the death of the Salvadorian television cameraman and placed him at the disposal of the courts. 3/

5. On the basis of 939,078 valid ballots counted, the Republican Nationalist Alliance (ARENA) party candidate, Mr. Alfredo Cristiani, received 53.83 per cent of the votes, while the Christian Democrat Party candidate, Mr. Fidel Chávez Mena, received 36.03 per cent and the candidates of other parties received much lower percentages. Mr. Cristiani took office as President of the Republic on 1 June 1989 and immediately proceeded to reorganize the Government. It should be noted that the FMLN imposed a transport stoppage as from 31 May, the day before Mr. Cristiani took office.

6. In January 1989, the FMLN told the Salvadorian authorities and parties that it would accept the results of the presidential elections - which were scheduled, as stated for 19 March - if they were held six months later and other requirements were met. As the Special Representative stated on 1 March 1989 when he submitted his report to the Commission on Human Rights, the proposal was innovative and interesting in that it meant that the guerrilla organizations were abandoning earlier claims which had thus far been regarded as unacceptable by the constitutional authorities of El Salvador. Despite intensive and arduous negotiations, however, no agreement was reached and the elections were held as originally scheduled, in the circumstances and with the results to which reference has been made.

7. A few days after the elections, Mr. Cristiani proposed that the dialogue with the FMLN should be resumed even before he took office. On 29 May 1989, the FMLN General Command also transmitted to the various Salvadorian political parties a proposal that the dialogue should be resumed with a view to comprehensive negotiations, including a cease-fire. 4/ As widely reported, when Mr. Cristiani took office on 1 June, he made an offer of permanent dialogue with the guerrilla organizations (the so-called "process" of dialogue). The first round of conversations took place in Mexico City on 13, 14 and 15 September. The second round began in San José, Costa Rica, on 16 October; no substantive agreement was reached at that meeting, but the participants decided to continue the talks one month later in Caracas. The meetings were attended by observers from the Salvadorian Catholic Church, the United Nations and the Organization of American States. However, since there were so many victims as a result of a bomb explosion in the offices of the FENASTRAS trade union movement, to which reference will be made below, and as a result of other outrages, the FMLN decided to break off the talks, although that did not mean that it was withdrawing completely from the process of dialogue. The interruption of the dialogue was followed by the FMLN general offensive, to which reference will also be made below.

8. During his stay in El Salvador, the Special Representative once again noted that Salvadorian citizens were very anxious that the dialogue should rapidly and once and for all lead to a negotiated solution to the conflict. Despite the difficulties involved in the dialogue and negotiation, the Special Representative again urges the Government and the FMLN to display political realism, generosity and imagination so that peace may become an immediate reality in El Salvador; only on the basis of peace will it be possible to carry out the concerted process of reconstruction which the country needs.

9. With regard to the dialogue and negotiation, the Special Representative wishes to draw attention to the fact that the Summit Meeting of Central American Presidents held in Tela (Honduras) from 5 to 7 August 1989 confirmed

"the expectation that the armed groups in the region, especially the FMLN, which continue to use force will desist from any action, for which purpose chapter III was adopted, strongly urging the FMLN to cease hostilities immediately and effectively in order to hold a dialogue which will lead to the abandonment of armed struggle and the incorporation of the members of the FMLN in institutional and democratic life". In chapter III, the Governments of the Central American countries strongly urge the FMLN "to hold a constructive dialogue with a view to achieving a just and lasting peace. The Governments in question also urge the Government of El Salvador to reach an agreement, with full guarantees that the members of the FMLN will be integrated into peaceful life".

10. As widely reported in the media, at about 8 p.m. on Saturday, 11 November 1989, the FMLN lauched a heavy general offensive throughout the country, but especially in the city of San Salvador. A letter addressed to the Special Representative by a representative of the FMLN 5/ states that the purpose of the offensive was "above all to put pressure on the armed forces to stop opposing the negotiations". In view of the scale of the offensive, the Salvadorian authorities decreed a state of emergency under the provisions of article 19 of the Constitution; on 13 November, it also proclaimed a curfew from 6 p.m. to 6 a.m. 6/ On 8 December, the Legislative Assembly extended the state of emergency for a further month; 7/ as from 4 December, the curfew had been shortened to the hours 11 p.m. to 5 a.m.

11. The FMLN offensive prompted a strong counter-offensive by the armed forces and, in this context of widespread warlike violence, the number of dead and wounded combatants on both sides reached unusually high levels. A matter of even greater concern is that both in connection with the fighting and independently of it, the atmosphere of violence resulted in an alarming increase in very serious violations of human rights, which will be described in the appropriate part of this report. In any event, the Special Representative quotes two comprehensive and detailed reports prepared in this connection by Americas Watch. The first report states: "Both the Government and the FMLN appear to have violated the rules of war during the first week of the offensive". The second report describes further serious violations of human rights by both sides. 8/

II. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

12. Because of limitations on the length of this report, the Special Representative will not reproduce in detail the extensive data he has received on the country's economic situation, but will simply point out that the factors which have resulted in a worsening of the living conditions of the vast majority of Salvadorian citizens persisted during 1989. Among these factors an important one is the continuation and intensification of the armed conflict.

13. During his stay in El Salvador, the Special Representative had an opportunity to visit the village of Tenancingo, which was subjected to heavy aerial bombardment several years ago. This village of some 300 inhabitants was difficult to reach; it had few public services and no army or security forces detachment was stationed there. According to its inhabitants, a Belgian nun took decisions in cases of emergency and saw to it that the community's most pressing needs were met. If, for example, a resident

required urgent medical attention, the nun would drive him in her car to the hospital in a nearby village. In addition, the inhabitants complained repeatedly and insistently that there was no work, since only farm labourers could find jobs - and only temporary ones at that. Some of the children were walking about barefoot and the general impression that Tenancingo made on the Special Representative was one of poverty, although not to the same critical and extreme degree as he had observed the year before in the resettled village of El Barillo.

14. The Special Representative received detailed information from various sources about interference with trade union activities. 9/ On occasion, the interference has allegedly gone as far as detention for periods longer than those allowed under the Constitution, torture, ill-treatment and even summary executions, all of which will be dealt with by the Special Representative in the appropriate part of this report.

15. The same sources refer to violent raids on trade union premises. Specifically, the FENASTRAS offices were surrounded and occupied on 22 February 1989 and again on 5 September 1989. 10/ On 18 September 1989, FENASTRAS unionists organized a demonstration which was forcibly broken up by the security forces and led to the arrest of over 60 persons. 11/ The Special Representative has learned that most of these persons were later released. He also received explanations from the competent Salvadorian authorities to the effect that the participants in the demonstration were very violent and set fire to a number of buses; the same authorities told the Special Representative that FENASTRAS activities provided a front for insurgency, an assertion that the trade unionists told the Special Representative was untrue. In any event, sources which are reported to be independent and which preferred not to be disclosed told the Special Representative that, to varying degrees, the activities of certain trade unionists were not entirely independent of the FMLN. One unionist went so far as to admit to the Special Representative that the political, but not military, objectives of the FMLN and those of his organization coincided. In any event, the Special Representative would remind the Salvadorian authorities that they are under an obligation to ensure that trade unionists enjoy the guarantees provided for in the Constitution and in the international human rights instruments which are binding on the Republic of El Salvador.

16. The Special Representative also received information 12/ on the raid carried out on 19 April 1989 by members of the army and the security forces on the premises of a number of humanitarian organizations, such as CRIPDES and others; the raids were allegedly followed by mass arrests. According to the authorities, these organizations are involved in insurgency activities, although this is denied by senior members of the organizations. On the same day, leaders of COMADRES were also arrested. On 26 May 1989, army detachments surrounded and occupied premises of trade union organizations, co-operatives, and humanitarian and refugee assistance organizations. 13/ On 3 July 1989, members of COMADRES were arrested by the police following a demonstration. 14/

17. On 31 October 1989, a powerful bomb exploded in the offices of FENASTRAS, where a large number of trade unionists were meeting. The following 10 persons died in the explosion: Febe E. Velásquez; Ricardo H. Cestoni; Sanabria de Elías, Rosa Hilda; Agruirre Mendoza, Julian Tatiana; Melgar, Vicente Salvador; López Meléndez, José Daniel; Vásquez Marquéz, Luis Edgardo;

Rosales Sánchez, Maria Magdalena; Tejada, Juan; and Hernández Ramos, Carmen Catalina. Local human rights organizations attributed the attack to members of the security forces and the armed forces. Another bomb went off in the COMADRES offices on the same day. 15/

18. The University of El Salvador also complained of harassment by the authorities. Thus, army detachments entered the university campus on 19 April 1989 16/ and again on 26 May. 17/ In early June, a university student died in a clash with the army. 18/ On the morning of 22 July, a group of persons set off four bombs in the printing office of the Central American University (UCA), causing extensive damage. 19/ On 28 August 1989, 20/ army troops opened fire on 15 university students, killing one and wounding six others. A press release by the Salvadorian Human Rights Commission (non-governmental) 21/ describes many other cases of interference with, and attacks on, university centres, including arrests, disappearances, death threats, ill-treatment, attacks on university officials, discoveries of bodies and damage. In an interview in El Salvador, university representatives confirmed these complaints to the Special Representative and gave him documentation concerning them. According to this documentation, 16 students were arrested and placed at the disposal of the courts.

19. The documentation referred to in the preceding paragraph includes a report on incidents which occurred at the University of El Salvador on 7 July 1989 and allegedly involved an attack by the army on University premises in which 24 persons were injured and many buildings damaged. In connection with these incidents, however, the Special Representative draws attention to a government communication 22/ stating that, on 17 July 1989, University of El Salvador students provoked military personnel on guard duty near the campus by throwing grenades and Molotov cocktails, thus prompting a reaction by the army in which many people were injured. According to statements by the Chairman of the General Association of University Students, 23/ however, the incidents occurred when the soldiers opened fire in order to break up a demonstration; he also notes that the soldiers did not suffer any casualties. In San Salvador, the competent authorities told the Special Representative that, in general, the University of El Salvador is a hotbed of subversive activity.

20. In El Salvador, the Special Representative spoke with a group of priests and members of religious orders who complained of constant harassment, usually psychological, by members of the security forces in uniform and in civilian clothing. They said that the presence of the police outside and inside churches was common. The Special Representative has learned from an Amnesty International document 24/ that, in the last few weeks of 1989, during the state of siege, there was an increase in violations of the human rights of priests, members of religious orders and male and female church members in general, in the form of arrests, ill-treatment, threats and looting.

21. In San Salvador, leaders of peasant organizations told the Special Representative of their deep concern and even anger about what they described as a step backwards in agrarian reform; they referred in particular to judgements by the Supreme Court of Justice ordering land expropriated for reform purposes to be returned to the former owners. The Special Representative drew these matters to the attention of the Supreme Court and

the Ministry of Agriculture. The acting President of the Supreme Court told the Special Representative that the Court had done nothing more than enforce the law strictly and scrupulously; in the specific case of El Espino estate, the Court ruled that, while the occupation of the rural part of the property was legal, the expropriation of the part which had been classified as urban prior to the entry into force of the Agrarian Reform Act was illegal. The Minister of Agriculture gave the Special Representative the same explanation, although he added that the Ministry was in contact with the former owners of the land in order to arrive at a satisfactory solution for all concerned. For his part, the president of the co-operative firmly maintains 25/ that the land was agricultural in nature and that all of it was and is being used to grow coffee. In any event, the Special Representative sincerely hopes that, in the case of El Espino estate and other cases, conciliatory solutions will be found in view of the social and even political sensitivity of the issue.

22. Before completing this part of the report, the Special Representative must say that he has continued to receive copious information about FMLN attacks on the country's economic infrastructure. Some of the results of these attacks are described below, on a selective basis.

23. According to information submitted to the Special Representative in El Salvador by the Río Lempa Hydroelectricity Board (CEL), damage due to these attacks during the period from 1 October 1988 to 31 August 1989 amounted to 37,808,163 Salvadorian colones ($US 1 = 6.4 colones), and damage to the National Telecommunications Administration (ANTEL) totalled 128 million colones.

24. The FMLN also imposed three "stoppages" (bans on traffic) in 1989: for four days in March during the presidential elections; for three days in late May and early June when the new President took office; and an indefinite stoppage starting on 12 November during the general offensive. 26/ From 15 June to 15 October 1989, 65 public transport vehicles were damaged by the guerrilla groups, and, on one occasion, the owner of a bus was murdered. 27/

25. The FMLN campaign of economic sabotage continued in the first few days of 1990. It was reported 28/ that, on 5 January, two commercial undertakings were attacked and seriously damaged and that the FMLN radio stations ordered attacks on private vehicles; there were also reports of further attacks on electricity supply installations.

III. CIVIL AND POLITICAL RIGHTS

A. Summary executions

26. During 1989, the Special Rapporteur continued to receive a great deal of disturbing information from many sources concerning politically-motivated summary executions of non-combatants and, as in previous reports, he wishes to draw attention to the difficulty of determining the exact number of such crimes. The figures differ depending on the source, and the greatest caution and circumspection should therefore be exercised in evaluating them.

27. The figures for summary executions attributed to members of the army and security and civil defence forces as communicated by Legal Protection 29/ are given below:

January	7
February	13
March	17
April	2
May	0
June	1
July	5
August	6
September	1
October	1
November	10

28. Christian Legal Aid 30/ supplied the following figures for summary executions:

January	2
February	8
March	1
April	5
May	0
June	0
July	0
August	0

29. The Salvadorian Human Rights Commission (governmental) provides the following figures 31/ for deaths of civilians attributable to members of the armed forces in 1989:

January	8
February	6
March	24
April	5
May	4
June	6
July	8
August	7

30. The same source has supplied the following figures for civilian deaths attributed to acts by unidentified persons:

January	42
February	33
March	33
April	23
May	22
June	11
July	22
August	21

31. As regards summary executions, the Special Representative has also received information on specific acts that are undoubtedly included in the figures given in previous paragraphs of this report. A selective and non-exhaustive list giving details of some of these acts is provided below.

32. One witness described in detail to the Special Representative how at 7 a.m. on 26 January 1989 she saw members of the civil defence forces beat her son, who had criticized them for ill-treating only honest citizens, and then shot him dead. The Special Representative was also able to examine the marks of gunshot wounds received by other children. Legal Protection has provided written information on this incident corroborating the above statement.

33. Another witness described how on 28 January 1989 uniformed soldiers had dragged his mother and stepfather out of their home into the street, where they forced them to lie on the ground face downwards and shot them dead.

34. A witness stated that, on 30 January 1989, uniformed soldiers had stopped him, his father and other persons as they were on their way to buy firewood. The witness was led aside and freed. He subsequently heard bursts of gunfire and the blasts of explosions; the bodies of his father and another person were found two days later.

35. Two other witnesses told the Special Representative that, on 31 May 1989, a friend of theirs was shot dead by members of the National Police, some of whom were in uniform and others in plain clothes. The police then shot and wounded one of the witnesses and mortally wounded her young son, whom she was holding in her arms. Legal Protection has provided the Special Representative with written information on these incidents.

36. A witness told the Special Representative that her husband had been arrested on 15 June 1989 by army soldiers on a charge of collaborating with guerrilla organizations; on 20 June, his body was found in a National Police barracks.

37. Two other witnesses told the Special Representative that, on 1 July 1989, uniformed soldiers went to their home and, after beating one of them, asked him to hand over his weapons; two of his friends then arrived and the soldiers forced three of them to come with them and later to wear hoods while being interrogated. After being detained for 16 days in a military unit, two of them died, one of gunshot wounds and the other in hospital as a result of blows. Legal Protection has also given the Special Representative details of this case.

38. Another witness said that, on 3 July 1989, uniformed soldiers arrested her male companion and shot him dead when he attempted to escape. She herself received gunshot wounds to the throat.

39. A witness described how two uniformed members of the civil defence forces detained his brother on 11 July 1989, tied him up and hit him in the eye, before killing him on a nearby road.

40. Two other witnesses described incidents that occurred on 7 August 1989, when uniformed soldiers had followed a pick-up truck in which the witnesses were travelling with other persons. When the vehicle stopped, the soldiers machine-gunned one of the occupants, who died from his wounds. According to the witnesses, the instigator of the murder was a civilian and the incident was caused by a quarrel over women.

41. Another summary execution described by witnesses to the Special Representative occurred on 22 August 1989, when a soldier shot a young student. The General Staff of the armed forces has acknowledged that he had been shot in error, and as a result the appropriate investigation has been initiated. 32/

42. Other witnesses described to the Special Representative how a young man died at about 3 a.m. on 29 August 1989 as he was helping them push a vehicle. A burst of machine-gun fire from a military vehicle killed him and wounded another five. The Special Representative questioned the General Staff of the armed forces about the incident and was informed that in this case the testimony was incorrect and that those responsible were being held at the disposal of the court. 33/

43. Another witness told the Special Representative that a person had been arrested on 8 September by army personnel and had died two days later from the blows he had received.

44. Another incident which occurred on 31 October 1989 in the premises of FENASTRAS and is described elsewhere in this report (para. 17) was undoubtedly a mass summary execution. The Special Representative was deeply distressed and shocked when he was informed of this killing.

45. He was equally distressed and shocked when he heard through the media that in the early morning on 16 November 1989 the Jesuit priests Ignacio Ellacuría, Rector of the Central American University (UCA), Segundo Montes, Ignacio Martín Baro, Armando López, Juan Ramón Moreno and Joaquín López had been murdered at their home, together with the domestic servant Elba Ramos and her 15-year old daughter, Celina Ramos. The Special Representative has received a large number of letters and expressions of deep indignation and vigorous condemnation of the murder. The circumstances of this abhorrent crime - the area was under military guard and the incident occurred during the curfew - appeared to point to the responsibility of members of the Salvadorian armed forces. And in fact, according to information widely publicized by the media, on 14 January 1990 Mr. Alfredo Cristiani, the President of the Republic, publicly stated that the investigations had identified Colonel Guillermo Benavides, Director of the Military Academy and former head of the General Staff intelligence services, together with two lieutenants, a sub-lieutenant, two sergeants, a corporal and two privates, as suspects in the killing. President Cristiani telephoned personally to the Special Representative in the evening of Monday, 15 January to inform him that he would send him the findings of the investigation and to reassert his intention of taking action in accordance with the law against those found guilty. On 18 January 1990, the Ambassador of El Salvador to the United Nations Office at Geneva gave the Special Representative the following documents on behalf of the President of the Republic: a report on the murder of six Jesuit priests and two women employed by them on the premises of José Simeón Cañas Central American University (UCA); a communiqué dated

18 January 1990 containing the names of the military personnel brought before the court; and a copy of the speech made by the President of the Republic on 13 January 1990. The Special Representative commends the attitude of the President, which shows unquestionable courage in view of the circumstances prevailing in El Salvador, and expresses his earnest hope and desire that the trial of those responsible for the mass murder will take place in accordance with the provisions of the Constitution and the international human rights instruments by which El Salvador is bound, and lead to a fair and exemplary sentence as quickly as possible. The Special Representative considers that this is a test case for the operation of Salvadorian criminal justice, and that if it is satisfactorily solved, it will vouch for the credibility of President Cristiani's current efforts to bring about improvement and reform.

46. The Special Representative has received information of a further mass summary execution, allegedly carried out by members of the armed forces on 12 November 1989. The victims included Norma Guirola, Mario Gálvez and others. 34/

47. Subject to the methodological reservations set out above and bearing in mind all the data to which the Special Representative has had access, it may be concluded that the figure for summary executions attributable to agents of the State apparatus in 1989 is regrettably higher than the already disturbing figure for 1988. Attention should none the less be drawn to the encouraging fact that in some cases the Government and General Staff of the armed forces have acknowledged the alleged responsibility of the perpetrators and that the appropriate proceedings have been initiated against them. However, in his report to the General Assembly 35/ the Special Representative mentioned the encouraging fact that until mid-October 1989 he had received no information of mass killings, but he now has to state that regrettably, in the final months of this year, there have indeed been a number of abhorrent killings of this kind.

48. The Special Representative has continued to receive copious information on politically-motivated summary executions attributable to the so-called "death squads". According to the informants, these death squads are linked to members of the armed and security forces or tolerated and protected by them, an assertion that appears quite probable, although the Special Representative has to point out that the circumstances under which the squads operate are not exactly conducive to an investigation of the acts specifically attributed to them. It should not be forgotten that the activities of the death squads may provide cover for ordinary offences. However that may be, Legal Protection 36/ has attributed the following summary executions to the death squads:

January	2
February	4
March	3
April	2
May	4
June	0
July	0
August	2
September	2
October	4
November	0

49. As to summary executions attributable to guerrilla organizations, the Special Representative has also received copious information. According to Legal Protection 37/, the figures are as follows:

January	8
February	3
March	2
April	4
May	4
June	5
July	1
August	3
September	0
October	0
November	0

50. The Salvadorian Human Rights Commission (governmental) has, for its part, given the following figures for "deaths among the civilian population and off-duty military personnel attributable to terrorist action": 38/

January	33
February	18
March	21
April	28
May	36
June	21
July	10
August	6

51. The Special Representative has also received specific information on summary executions attributable to the guerrilla organizations. The information, which is selective and non-exhaustive, is set out in the following paragraphs.

52. Thus, the Government of El Salvador has reported that, on 27 January 1989, an FMLN commando murdered Ernesto Antonio Flores, Governor of Usulután, as he was resting at his home; on 18 January 1989, Mr. Orlando Martínez was murdered at Cantón Sitio Viejo; and on 14 January, Mr. Carlos Echeverría was murdered in Cantón San Francisco del Monte, in front of his family. In addition, FMLN urban commandos murdered Miguel Castellanos, a former guerrilla commander, on 17 February as he was driving his car in San Salvador. 40/ On 13 June, Mr. Miguel Angel Ramírez, a police psychologist, was murdered. Responsibility for his murder was claimed by the FMLN, which accused him of engaging in torture during police interrogations of FMLN activists. 41/ On 26 June, the Colonel in charge of the Fire Department, Roberto Armando Rivera, was murdered as he was leaving his home in San Salvador for work. Responsibility for his murder has been claimed by FMLN urban commandos. 42/

53. The Special Representative also wishes to draw attention to the murder of the Government Attorney, Mr. Roberto García Alvarado, on 19 April 1989, when a bomb exploded in his car. Responsibility for the killing was claimed by the so-called "Gerardo Barrios Civic Forces", a far-right group, 43/ although a communication from the Government to the Special Representative attributed the

act to terrorist groups 44/ and no public denial has been made by the FMLN. The Special Representative considers that responsibility for the murder of the Government Attorney may be attributed to the Front.

54. Furthermore, on 24 November 1989 Mr. Francisco José Guerrero, a prominent politician with whom the Special Representative had had several conversations when he was President of the Supreme Court, was murdered in San Salvador. A government communiqué 45/ attributed the murder to FMLN urban commandos, although the Special Representative has no record of the Front having claimed responsibility for it.

55. The Special Representative has also been informed that, at the time of its general offensive in November 1989, FMLN units summarily executed one civilian in Mejicanos and three in Ciudad Delgado. All were suspected of collaboration with the armed forces. 46/

56. However, the FMLN has categorically denied a number of other acts attributed to it. The first of these was the machine-gun murder of Mr. José Antonio Rodriguez Porth, Minister of the Office of the President, on 9 June 1989, together with his driver and a companion. The Government 47/ has attributed the murder to the FMLN, although in a communiqué of 12 June 1989 made available to the Special Representative the Front emphatically denied any involvement in it. Similarly, the Armed Forces Press Committee (COPREFA) has also attributed to FMLN commandos the murder of Edgar Chacón, an international relations expert, as he was driving his car in San Salvador on 30 June 1989. The victim's widow has made the same allegation, although it has been denied by the FMLN. 48/ The FMLN has also denied involvement in the attack, on 2 July 1989, on the car of Mr. Mauricio Gutiérrez Castro, the President of the Supreme Court, in which he was travelling with his family and which led to the death of a bodyguard. 49/ Furthermore, the FMLN has denied, in a communication to the Special Representative, any responsibility for the attack on 14 April 1989 against the home of Mr. Francisco Merino, the Vice-President of the Republic. The Government has nevertheless attributed responsibility for the attack to commandos of the guerrilla organization. 50/

57. On 17 October 1989, Maria Isabel Casanova Porras, the young daughter of the Colonel in charge of the Armed Forces Study Centre was murdered in San Salvador. The Government 51/ has attributed the crime to FMLN urban commandos, although the Front has denied responsibility in a communication to the Special Representative. 52/

58. With regard to summary executions of government officials, right-wingers or their relatives for which the FMLN has denied responsibility, private individuals and independent institutions put forward to the Special Representative in San Salvador the theory that the acts could have been committed by violent extreme left-wing commandos acting independently of the FMLN. In the view of the Special Representative, that possibility should not be discounted.

59. Although what is involved is not strictly a summary execution, but at the very most an implicit threat of summary execution, the Special Representative wishes to draw attention to the fact that while in El Salvador he had an opportunity to examine a number of communications sent by the FMLN to a peasant farmer ordering him to supply food and materials for the manufacture

of explosives as a form of revolutionary tax. The Special Representative fully appreciates the farmer's distressing position: if he failed to meet the demand, he would expose himself to the worst form of reprisal, and if he agreed to it, he would run the risk of being accused of collaborating with the guerrillas.

60. The incident described to the Special Representative university professor who was the victim of a bomb explosion outside his front door on 5 April 1989 constitutes an attempted summary execution. The professor lost a hand and part of an arm. He believes the bomb had been planted by an extreme left-wing commando, as he had previously received threats and had criticized the guerrilla ideology in his work at the university.

61. Thus, in 1989 the guerrilla organizations have persisted with their disturbing "ajusticiamientos" (summary executions), which are equivalent to summary executions as they are incompatible with the universally-accepted standards of protection of human life.

62. In the course of 1989, FMLN commandos have continued their disturbing and indiscriminate urban activities. The Government of El Salvador reported 53/ that, on 7 February 1989, FMLN urban commandos placed explosive devices in San Salvador in the vicinity of the National Dance School, thus endangering many lives. On 22 May 1989, 54/ FMLN commandos exploded a mine on a road in Santa Ana Department as a minibus carrying civilian passengers went by, killing eight persons, including two children, and seriously injuring seven. The Government has also reported 55/ that, on 23 June 1989, FMLN commandos launched an attack on the capital's central market, which killed several people and wounded many others. The same source 56/ has also reported that, on 3 July 1989, guerrilla commandos carried out an attack on the Arce residential district of San Salvador, mainly inhabited by military families, thus endangering the lives of many people, particularly children on their way to school. Finally, according to a government communication 57/, at 9.30 a.m. on 30 October 1989 FMLN urban commandos fired several explosive devices in a crowded commercial district in the south-east of the capital, killing one person and seriously wounding 15 others, as well as badly damaging the premises of a car sales firm.

B. Arrests, abductions and disappearances

63. Non-governmental organizations explained to the Special Representative in San Salvador that so far in 1989 the number of persons detained for political reasons had increased, and had increased even further as a result of the FMLN's general offensive in the final months of the year. This is undoubtedly true, although the Special Representative wishes to repeat that he recognizes the right of the Salvadorian authorities to arrest persons who take up arms against the constitutional order, provided that the arrest and subsequent judicial proceedings are in conformity with constitutional standards and the international commitments regarding human rights which the Republic of El Salvador has entered into.

64. Legal Protection 58/ has provided the following statistics:

	Persons arrested	Persons arrested and subsequently missing	Missing persons	Persons arrested and subsequently released
January	12	9	9	52
February	31	17	5	34
March	25	3	5	28
April	55	9	10	54
May	24	4	1	45
June	25	4	6	37
July	61	5	5	46
August	33	17	8	25
September	39	10	6	0
October	51	7	4	12
November	90	18	21	9

65. Legal Aid has provided the following figures: 59/

	Arbitrary arrests	Disappearances
January	45	3
February	44	5
March	38	0
April	56	1
May	42	1
June	27	2
July	42	0
August	40	5
September	22	1

66. In addition to the above, the Special Representative wishes to add that while in El Salvador he heard a number of testimonies on disappearances.

67. People have also been abducted by the guerrilla organizations. The following figures have been provided by Legal Protection: 60/

	Persons abducted by guerrillas	Persons abducted by guerrillas and subsequently released
January	8	0
February	4	0
March	4	2
April	8	0
May	0	0
June	0	3
July	2	0
August	3	0
September	3	0
October	1	0
November	13	1

68. For its part, the Salvadorian Human Rights Commission (governmental) gives the following figures for civilians abducted by FMLN: 61/

January	85
February	20
March	30
April	43
May	20
June	9
July	2
August	14

69. According to a telex sent to the Salvadorian Mission to the United Nations Office at Geneva, 62/ on Monday 15 January 1990, FMLN elements abducted 10 young people aged between 15 and 20 in Cantón Lomas de Angulo, San Vicente Department.

70. It should be noted that the data provided above include mass abductions.

C. Treatment of political prisoners

71. The Special Representative was informed by the Minister of Justice that approximately 250 persons were in custody for political offences on 14 October 1989, an appreciably higher figure than in 1988. The Special Representative has been informed that, during the FMLN's general offensive in November and December 1989, the number of such detentions increased considerably. During interviews in El Salvador, the relatives of the persons concerned expressed to the Special Representative their concern at the dispersal of the detainees among the country's various prisons and at the fact that they were forced to live in extremely difficult conditions with ordinary criminals. The Minister of Justice nevertheless reassured the Special Representative that political detainees received special treatment.

72. Most of the non-governmental organizations that provided the Special Representative with oral and written information in El Salvador complained of a marked increase in torture of political prisoners by their interrogators. The Special Representative interviewed a fairly broad sample of persons who had been detained and subsequently released. The witnesses who were members of organizations invariably described the same scenario: very long interrogations with their eyes blindfolded while they were prevented from either sitting or resting; repeated blows; continuous use of a hood preventing them from breathing and causing them to faint; electric shocks in baths; use of drugs and acids; frequent rape and sexual abuse of women and even men, together with threats against their relatives. Individual witnesses complained of psychological ill-treatment and occasionally of blows and death threats to them or their relatives. A few witnesses said that they had not been ill-treated, although they described the interrogation as tough and humiliating.

73. The Special Representative informed the competent authorities of his concern about this testimony. In reply, he was told that interrogations were conducted using the most modern scientific methods, including the use of the polygraph or lie detector, and that they were always carried out in a proper manner. The authorities added that the testimony formed part of "orchestrated" campaigns by the FMLN and groups controlled by it to discredit the Government. They nevertheless acknowledged that detainees were blindfolded during interrogation to prevent them from later recognizing their interrogators. One senior official acknowledged that isolated cases of ill-treatment were possible, but that the practice was in no way institutionalized.

74. The Special Representative admits that owing to the number and nature of the witnesses he was able to examine, he is unable to calculate precisely the percentage of persons subjected to torture or cruel, inhuman or degrading treatment, although he has the impression that the figure is higher than in recent years. He none the less remains convinced that there is no institutionalized and widespread policy of torture. Whether or not a detainee is subjected to torture depends on a number of concomitant factors, such as the value of the information he might possess, the military circumstances of the conflict, the identity of his captors, etc.

D. Criminal justice

75. While in El Salvador, the Special Representative received detailed oral and written information from the Supreme Court on the activities of the criminal justice system in the area of human rights violations. Among this information the sentencing, on 21 September 1989 by Santa Ana Criminal Court, of an army officer to 30 years' imprisonment for murder unconnected with military action 63/ is particularly noteworthy.

76. The documents referred to in the previous paragraph contain information on the activities of the Executive Unit of the Criminal Investigation Commission between 1985 and 1989. The number of cases assigned to it was 87, 49 of which have been closed, although only as regards the investigation stage. It is interesting to note that a major, a sub-lieutenant, two sergeants, a corporal and four privates have been placed at the disposal

of the court in connection with the mass summary executions perpetrated on 21 September last year in Cantón San Francisco in the Jurisdiction of San Sebastián, referred to by the Special Representative in his previous report. 64/ The Special Representative hopes that the accused will be sentenced if their involvement in the acts in question is duly established.

77. According to information provided by the Government of El Salvador, the military personnel accused of the murder of Father Ellacuría and other persons have been placed at the disposal of the Fourth Criminal Court in San Salvador. The Special Representative trusts that the judicial proceedings will follow their normal course and that a just and exemplary sentence will be handed down.

78. The Special Representative also recalls that proceedings are under way against members of the armed forces in connection with some of the summary executions described in chapter IV of this report. He hopes that, in these cases too, sentences will be handed down if the involvement of the accused is fully established.

79. However, it should be mentioned that after the Salvadorian Supreme Court rejected the application to extradite the alleged murderer of Archbishop Romero, the suspect was released in Miami, 65/ and the Special Representative has received no information of any further developments. On 1 April, a Salvadorian judge dismissed the proceedings against two former officers accused of abducting a number of officials, not for political motives but for financial gain. 66/ In addition, a member of the National Police accused of shooting at a United States nun was released by a judge on the basis of legal technicalities. 67/ However, the deepest source of concern to the Special Representative is that, even excluding cases covered by the Amnesty Act of October 1987, no sentences have been handed down in, nor indeed has any significant progress been made in investigating, the cases described in his 1988 report, particularly thoses involving summary executions.

80. The current President and members of the Supreme Court described to the Special Representative, more emphatically than in previous years, the difficulties impeding the normal course of Salvadorian criminal justice. Those difficulties have been described in previous reports 68/ and the Special Representative firmly believes that they should be taken into account in any overall assessment of criminal justice in El Salvador. This having been said, it must be added that the overall performance of the criminal justice system remains highly unsatisfactory. It should be pointed out that the President of the Republic and the members of the Supreme Court are very eager to improve the system. Specific projects designed to bring about an improvement will be described in chapter VI of this report.

81. As is widely known, 69/ on 23 June 1989 the Government of El Salvador introduced a Penal Code reform bill before the Legislative Assembly. The bill has aroused deep concern in various spheres of opinion as it criminalizes hitherto lawful activities. The Special Representative wishes to draw attention to article 9 of the bill, which imposes penalties on anyone who "by means of visits abroad, messages or in any other manner, encourages acts, declarations or programmes encouraging other States or international organizations to intervene in the domestic affairs of El Salvador". If this article of the bill becomes law, it will provide the Salvadorian courts with grounds for punishing anyone who supplies information on human rights to the

Special Representative, and would constitute a serious de facto impediment to compliance with the mandate by virtue of which this report has been written. However, the competent Salvadorian authorities assured the Special Representative that they intended to analyse in detail the criticism to which the bill and other proposed legislative reforms had given rise, so as to ensure that future legislation did not run counter to constitutional principles or to El Salvador's international human rights commitments. Nevertheless, the Special Representative has learned that on 24 November 1989, in the climate of extreme tension generated by the FMLN's general offensive, the Legislative Assembly adopted part of the package of proposed reforms. 70/ The reforms have not yet taken effect, as they were returned to the Legislative Assembly for review by President Cristiani on 9 December. 71/ The Special Representative wishes to express his deep concern at the potential restrictions on freedom of opinion and expression represented by the reforms, and at the obstacles they will place in the path of local non-governmental human rights organizations.

IV. RESPECT FOR INTERNATIONAL HUMANITARIAN LAW IN ARMED CONFLICTS

82. According to Legal Protection, 72/ the numbers of persons killed by the army in military action, including both civilians and guerrilla fighters (it is not possible to establish their category), are as follows:

January	82
February	87
March	76
April	129
May	157
June	76
July	83
August	78
September	52
October	38
November	725

83. The same source gives the following figures for civilian deaths attributable to explosive devices planted by the army:

January	2
February	0
March	0
April	0
May	0
June	3
July	0
August	1
September	0
October	1
November	3

84. The Salvadorian Human Rights Commission (governmental) gives the following figures for "civilian deaths attributable to clashes between the armed forces and the FMLN": 73/

January	1
February	2
March	0
April	1
May	0
June	2
July	0
August	3

85. The Special Representative has also received specific information on attacks by the Salvadorian army and air force on civilian targets. Thus 74/ on 29 May 1989, the village of San José Las Flores was bombed and machine-gunned, with considerable damage to crops and other property, although there were no casualties. He has also been informed 75/ that on 23 July 1989 the air force bombed and machine-gunned the resettled community of Santa Marta, in Cabañas Department, and that one of its inhabitants has not been seen since the bombardment. The same source reports that on 10 July the army launched a mortar attack on the village of San Miguel in Morazán Department, causing the death of a peasant farmer and wounding his 15-year-old granddaughter. On 28 and 29 August, 76/ the air force again bombed the village of San José Las Flores, destroying 30 houses and fields of crops, and compelling the inhabitants to take refuge in the church for 12 hours. When the Special Representative requested information on these incidents from the General Staff of the air force, he was told that San José Las Flores had been in the hands of the FMLN for the whole night, and that military action had been necessary to dislodge it. As far as the marks left by fragmentation bombs were concerned, it was extremely difficult to determine whether they had been fired by the army or by the FMLN.

86. It has also been reported 77/ that in a clash with FMLN forces on 4 May 1989 near Huizucan, La Libertad Department, two Mexican and two Salvadorian citizens were killed by army gunfire.

87. Members of religious orders, priests and a number of witnesses complained to the Special Representative in San Salvador of the harsh treatment inflicted by members of the armed forces on the civilian population living in combat zones: searches, threats, arbitrary bans (for example, on the collection and transport of firewood), tight control over the entry of food and medical supplies, and other measures.

88. A number of sources have alleged to the Special Representative that, in response to the FMLN's general offensive in the closing months of 1989, the Salvadorian armed forces indiscriminately bombarded urban areas occupied by the guerrillas, and that civilians had been caught up in those attacks. The Special Representative has been unable to carry out a personal investigation into these allegations as his visit to El Salvador took place three weeks before the offensive, on account of which he will refer to the detailed reports prepared by Americas Watch. According to this independent humanitarian organization, 78/ "our investigations, which are continuing,

suggest that, at least in the three neighbourhoods visited, the civilians had the impression that helicopter strafing and bombing were aimed principally at guerrilla emplacements. In the particular zones visited, either there were fewer civilian deaths than the hundreds initially reported, or people were afraid to talk about them in the wake of the killing of the six Jesuit priests. We also found isolated cases of the Army striking civilian buildings without first giving warning to evacuate ...".

89. The information provided in the previous paragraphs and examination of a number of witnesses have led the Special Representative to the conclusion that the situation of the urban and rural civilian population in combat zones is extremely difficult and distressing. He also considers that, as in recent years, the armed forces have killed and wounded members of the civilian population in its clashes with the guerrillas, although they have not done so intentionally, indiscriminately or in a widespread manner, but inadvertently and occasionally. The number of civilian deaths undoubtedly increased on the occasion of the response to the FMLN's general offensive, although it is difficult to set an exact figure. The Special Representative nevertheless believes that the total number of persons killed in these circumstances is lower than the number killed in summary executions unconnected with combat. The armed forces also damage public and private property, as well as crops, although it may be difficult to determine, after bitter fighting, which of the two belligerents, the army or the guerrillas, caused the damage.

90. The Special Representative has also received information on the violent dismantling of FMLN health posts by the army. Specifically, according to detailed reports by Legal Protection and Legal Aid following an on-the-spot investigation, including interviews with witnesses, 79/ on 13 February 1989 army forces attacked a field hospital set up by the FMLN in Canton Chupadero, Chalatenango Department, in the vicinity of the River Sumpul, and killed a Mexican woman doctor, a 14-year-old Salvadorian assistant, three other assistants, three wounded patients and two who had been maimed in the war. The corpses were buried by local inhabitants, and the marks left on a number of female corpses indicated that they had been the victims of rape or attempted rape. The Special Representative has also received information from the FMLN 80/ that on 15 April 1989 the air force attacked another of its health posts in San Vicente Department, killing a doctor, a male nurse, an assistant and two stretcher-bearers. When the Special Representative requested information on these incidents from the General Staff of the armed forces, he was told that FMLN health posts are little more than caves and that it was impossible to identify them as hospitals as they did not carry any markings.

91. Americas Watch 81/ reports that, during its counter-attack against the FMLN's general offensive, the armed forces on occasion refused due protection for persons wounded in combat, and that on 19 November in particular five health workers were detained in Mejicanos, four being subsequently released; eight seriously wounded persons disappeared. It has also been reported that the Government rejected a truce proposed by ICRC to allow wounded to be evacuated during the first week of fighting, although it said that it would not prevent the provision of medical assistance.

92. As regards civilian victims of guerrilla military action, the Salvadorian Commission on Human Rights (governmental) has provided the following figures for persons killed by explosions:

January	9
February	5
March	11
April	14
May	22
June	5
July	0
August	0
September	0
October	0
November	2

93. Men account for 58 per cent of these figures, women 17 per cent and juveniles 25 per cent. It should also be emphasized that, in July and August, there were no deaths from mines laid by the guerrillas.

94. Legal Protection maintains that the guerrillas were responsible for the following number of deaths from explosive devices:

January	2
February	4
March	0
April	1
May	17
June	0
July	0
August	0
September	0
October	0
November	2

95. According to the Government of El Salvador, 84/ two boys aged 15 and 18 were injured on 17 January 1990 when they accidentally set off an explosive device laid by the guerrillas near the town of Usulután.

96. The Special Representative has received other specific information about civilian victims of FMLN forces in the fighting. For example, 85/ in the guerrilla attack of 20 January 1989 on the Treasury Police headquarters in San Salvador, one civilian was killed and two others were wounded in the shooting. And according to the Government, 86/ on 25 May 1989 FMLN squads in San Salvador attacked the headquarters of the First Infantry Brigade, the National Police and other military positions: six civilians were wounded and hundreds of families were evacuated from their homes.

97. According to Americas Watch, 87/ in the November and December offensive there were cases "of guerrillas using civilians as shields and impressing them into building corridors, although these were not uniform practices". In other instances, the FMLN stopped civilians from moving about freely and even forced them to set up barricades.

98. The Government of El Salvador reports that on 12 November 1989 FMLN guerrilla organizations took over Santa Teresa Hospital in the town of Zacatecoluca and blew up one of the floors of the building, killing a soldier who was a patient. 88/

V. EFFORTS TO ENHANCE RESPECT FOR HUMAN RIGHTS

99. In an interview with the Special Representative in October 1988, Mr. Cristiani, the candidate of the Republican Nationalist Alliance (ARENA) party, demonstrated great concern for human rights; observance of those rights, he said, would be an essential part of his policy should he win the elections. In keeping with that view, when he took office as President on 1 June 1989, Mr. Cristiani made a major policy speech in which he said, among other things: "We shall strive to defend human rights, as a moral conviction, a political imperative and a patriotic duty. We shall be the first to make sure that respect for human rights is once again the norm for life in our society". In the same speech, and as part of that endeavour, President Cristiani promised his full support in improving, cleaning up and expediting the administration of justice in El Salvador. On 13 October 1989, the President personally reaffirmed these aims when he spoke to the Special Representative, who believes in the sincerity of these objectives, greatly welcomes the fact that respect for human rights has become such a major component of the Government's policy and fervently hopes that it will produce rapid results. The announcement to the media that the military personnel reportedly involved in the mass killings of Father Ellacuría and other persons have been brought before the courts is, in the opinion of the Special Representative, confirmation of the sincerity and firmness of the President's commitment to a policy of respect for human rights. It should none the less be noted that the policy has still not come up to expectations, doubtless because there are groups whose actions are, unfortunately, beyond the control of the constitutional authorities.

100. On the very delicate question of the administration of justice, the President himself and the President of the Supreme Court told the Special Representative about a number of measures, such as the establishment of Circuit Support Courts (intended to help the courts with a heavy workload - some are already in operation) an Office for Information on Detainees, which would function 24 hours a day, judges to supervise prisons, the National Council for the Judiciary and new criminal courts, and the hiring of a specialist on human rights. The catalogue of measures is a long one, and it is the Special Representative's hope that normal and effective functioning of the criminal courts will be achieved as quickly as possible.

101. According to information from the armed forces, 89/ talks on human rights and international humanitarian law are still being given in units throughout El Salvador. Up to the time of writing in 1989, 644 talks have been given to 32,200 troops. The armed forces are planning to set up a Civilian Affairs and Human Rights Office, which will consist exclusively of expert civilian personnel and will not be located on military premises.

102. In previous reports, the Special Representative spoke favourably of the work done by El Salvador's Human Rights Commission (governmental). 90/ Admittedly, the Commission has had no success in something that is beyond its reach - eliminating human rights violations, but the Special Representative

must point out that it has carried on its praiseworthy work of defending and promoting those rights. One witness introduced by a non-governmental organization vividly described to the Special Representative the courageous and forceful way in which a representative of the governmental Commission had acted in trying to determine the witness's whereabouts at a military prison.

103. The Special Representative must also mention the repatriation, on 27 October 1989, of 1,600 Salvadorian refugees from the Mesa Grande camp in Honduras. 91/ According to the Salvadorian press, 92/ a further 7,000 refugees were to be repatriated on 14 January 1990; 550 people were repatriated on the day scheduled. 93/

104. The Special Representative learned that there were about 120 wounded and maimed members of the FMLN who were expecting to leave El Salvador for medical treatment abroad. On 4 May 1989, Mr. Duarte, who was still President, publicly announced that he was arranging for them to leave, 94/ but in fact they were not evacuated on the scheduled dates; eight of them took refuge in San Salvador Cathedral for over a month, until they were taken to the Mexican Embassy. It was the intention of President Cristiani's Government that these persons should leave the country lawfully, and a special amnesty was proposed in the Legislative Assembly and adopted on 6 October 1989. 95/ On 7 October, 46 maimed members of the FMLN left El Salvador for Mexico and Cuba, although it is being argued in El Salvador whether this was a result of the amnesty adopted the day before or had nothing to do with it. As to the FMLN wounded and maimed still in El Salvador, the competent authorities told the Special Representative that the intention was to evacuate them under the terms of the Constitution and the law. In the opinion of the Special Representative, from a humanitarian point of view the departure of the maimed is more important than any kind of legal technicality.

105. The Special Representative has received information 96/ that, since 7 November, 32 maimed members of the FMLN have taken refuge in El Calvario Church, close to San Salvador's central market, asking the Government to allow them to leave for medical treatment abroad, and that on 20 December a further 11 FMLN maimed took refuge in El Rosario Church, also in San Salvador, for the same reason. The Special Representative hopes that the distressing situation of these persons will be solved as soon as possible.

106. The Special Representative would also point out that, on 5 March 1989, the army and the FMLN agreed on a truce to help an infant vaccination programme, which went ahead without difficulty. 97/ For its part, the FMLN held a 24-hour truce from 00.00 hours on 13 February 1989 in connection with the meeting of Central American Presidents in Tesoro Beach. 98/ Again, in connection with the dialogue with the Government in Mexico City, the FMLN unilaterally ordered another truce from 13 to 23 September. 99/ In addition, according to a communiqué from the FMLN's secretariat for the Promotion and Protection of Human Rights, on 10 and 11 September 1989 six soldiers captured a few days earlier were handed over to the International Committee of the Red Cross. The communiqué states that the soldiers received medical care and humanitarian treatment. 100/ According to a further communication by the FMLN, 101/ in mid-December 1989 it released 29 soldiers captured during fighting in the general offensive. And another communiqué, 102/ states that the FMLN responded positively to the ICRC's call for a truce in order to evacuate the wounded.

VI. CONCLUSIONS

107. After making a detailed assessment of the information set out in this report on the human rights situation in El Salvador in 1989, the Special Representative draws a number of conclusions.

Economic, social and cultural rights

108. The situation regarding economic, social and cultural rights of Salvadorians is still adversely affected by a combination of factors, more particularly the persistent and intensified conflict between the armed forces and the FMLN, and the consequent climate of widespread violence.

109. The FMLN's systematic attacks on El Salvador's economic infrastructure also do serious harm to the present and future enjoyment by Salvadorians of important economic, social and cultural rights.

110. This year there has been a disturbing increase in government actions of all kinds against trade union, peasant, humanitarian and other organizations. The Government contends that some of these organizations are submissive to the FMLN, a position which the organizations concerned deny but one which, if true, in no sense justifies violations of human rights.

Summary executions

111. Members of the State apparatus, particularly the armed forces, have committed politically-motivated summary executions, including mass executions. It is difficult to determine their exact number but it is generally higher than the already disturbing level of last year. One point of interest is that judicial inquiries and proceedings have been undertaken in connection with some of these summary executions.

112. Many sources continue to attribute disturbing summary executions and other serious violations of human rights to the so-called "death squads", said to be connected with the armed forces or security forces or tolerated by them. The Special Representative finds these charges credible, but because of the difficulties involved in investigating claims of this type, he is unable to reach definite conclusions on specific cases. He does not, however, rule out the possibility that these activities are used to cover up ordinary offences.

113. The FMLN, for its part, has continued to perpetrate summary executions of alleged collaborators with the armed forces, military personnel and senior civil servants, as well as people ideologically opposed to it. Such crimes could have been committed by squads of left-wing extremists independent of the FMLN. The Front has also carried out disturbing indiscriminate actions in towns and cities which have killed and wounded civilians.

Abductions and disappearances

114. Disturbing cases of politically-motivated disappearances are still taking place. It is difficult to determine precisely the number of such disappearances and who the abductors are, although the Special Representative does not rule out the possibility that the "death squads" may have had a part in some of the cases.

115. In addition, the guerrilla organizations have carried out disturbing kidnappings of individuals.

Treatment of political prisoners

116. The number of arrests on political grounds rose in 1989 and, although the Special Representative does not deny that El Salvador's constitutional authorities are entitled to proceed against those who use violence to overthrow the constitutional system, he does think that in the past year more use has been made of physical and mental torture in police questioning of detainees. However, torture is not a widespread practice nor is it an instrument of government policy.

The criminal courts

117. In 1989, an army officer was convicted in a non-military case of homicide, and court action has continued in connection with a mass execution committed in the past year. Proceedings have also been initiated with regard to a number of summary executions which occurred in 1989. There is, however, no significant progress in previous cases pending nor court action of any kind regarding many summary executions and other abuses committed in 1988 and 1989, for which reason the Special Representative takes the view that the situation regarding the criminal courts is still highly unsatisfactory. The difficulties in the normal functioning of the courts, as well as the proposed judicial reforms, must none the less be taken into account.

The armed conflict

118. The armed forces' treatment of the civilian population in the areas of conflict has been harsh and distressing, and their military activities have caused civilian fatalities and injuries, particularly during the counter-attack against the general offensive by the FMLN. Casualties do not occur in a general and indiscriminate fashion, but they do happen occasionally, albeit in smaller numbers than summary executions unconnected with combat. In the course of the dismantling of FMLN health posts, army action has caused fatalities and other casualties among medical and health personnel.

119. The FMLN, for its part, has caused fatalities among civilians who have set off mines, although in some months in 1989 there were no reports of incidents of this type; guerrilla gunfire has caused other civilian casualties. There are also reports that guerrilla organizations have engaged in extortion against peasants in the areas of conflict.

Efforts to enhance respect for human rights

120. It should be noted that, despite harassment by the FMLN, the presidential elections were held on 19 March 1989, and that on 1 June 1989 the transfer of power took place normally, as provided for in the Constitution.

121. The Special Representative also wishes to place on record the fact that respect for human rights and dialogue for peace are fundamental components of the policy of Mr. Cristiani, the Constitutional President of the Republic. He considers that such policies, although they are not being reflected immediately and overtly in everyday life, are sincere. He expresses his hope

and fervent desire that, through due constitutional control of all agencies of the State apparatus, it will prove possible to overcome the current difficulties in order that peace and respect for human rights in El Salvador may rapidly become an everyday reality.

122. As regards the process of dialogue between the Government and the FMLN, the Special Representative can only express his deep concern at the present deadlock and his hope that, once dialogue is resumed, it will rapidly lead to a negotiated solution of the conflict.

123. Lastly, the Special Representative wishes to place on record the FMLN's policy of not using contact mines in its military activities, even though in recent months civilians have been killed by guerrilla mines.

VII. RECOMMENDATIONS

124. The Special Representative is deeply alarmed at the number and seriousness of human rights violations during 1989, which represent a worsening of the already disturbing situation in 1988. He again most emphatically urges the Government and all the authorities, agencies and political forces in El Salvador, including the guerrilla organizations, immediately to take all necessary steps to end once and for all attacks on human life, integrity and dignity, both in combat and in non-combat situations.

125. The Special Representative also appeals most emphatically to the Government and the FMLN to resume the process of dialogue and negotiation and to manifest in this process a spirit of political realism, generosity and imagination, in order that a negotiated and just peace and the subsequent rebuilding of the country may be achieved as early as possible.

126. The Special Representative particularly reiterates to the constitutional authorities of the Republic of El Salvador the recommendations contained in his previous report to the Commission on Human Rights, 103/ and more specifically recommends that:

(a) The necessary measures should immediately be adopted in order to ensure that police interrogation of detainees conforms to the standards embodied in the 1983 Constitution and in the international commitments undertaken by the Republic in the area of human rights;

(b) The encouragement of judicial reform should be maintained in order that the criminal courts may function in accordance with the above-mentioned standards;

(c) The judicial proceedings initiated in connection with the mass killings in the last three months of 1989 should be expedited in order that they may give rise to just and exemplary sentences as soon as possible;

(d) The agrarian reform and other structural reforms necessary for the greater well-being of the population should be continued.

127. To the FMLN and guerrilla organizations, the Special Representative reiterates the recommendations he made in the previous report to the Commission on Human Rights, 104/ and, in particular, further recommends that:

(a) They should continue to adhere firmly to the policy of not laying contact mines which may cause deaths or injuries among the civilian population;

(b) They should immediately refrain from any kind of indiscriminate urban action.

128. Lastly, the Special Representative again recommends to all States members of the international community, and particularly to the richest and most developed States, that they should increase the assistance necessary to alleviate and improve the living conditions of Salvadorian citizens who have been displaced, made refugees or resettled as a result of the hostilities.

Notes

1/ El Salvador on line, No. 102, 13 March 1989; El País, 17 March 1989.

2/ El País, 20 March 1989; El Salvador on line, 20 March 1989.

3/ El País, 23 March 1989.

4/ Documentation made available by the FMLN.

5/ Letter of 9 November 1989.

6/ Telex dated 14 November 1989 from the Embassy of El Salvador in Madrid addressed to the Special Representative.

7/ Le Monde, 10 and 11 December 1989.

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31/ Situation of human rights and fundamental freedoms in El Salvador, report submitted by the Constitutional President of the Republic.

32/ Information bulletin by COPREFA No. 269, 31 August 1989.

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34/ Americas Watch, Carnage Again, op.cit.

35/ Document A/44/671, para. 40.

36/ Information bulletins for the months January to November 1989.

37/ Ibid.

38/ Situation of human rights and fundamental freedoms in El Salvador, report submitted by the Constitutional President of the Republic.

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40/ El Salvador on line, 20 February 1989.

41/ Ibid., 19 June 1989.

42/ Ibid., 3 July 1989; and communication dated 28 July 1989 from the Embassy of El Salvador in Madrid addressed to the Special Representative.

43/ El Salvador on line, 24 April 1989.

44/ Communication dated 20 April 1989 from the Embassy of El Salvador in Madrid addressed to the Special Representative.

45/ Communication dated 5 December 1989 from the Embassy of El Salvador in Madrid addressed to the Special Representative.

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47/ Communication dated 13 June 1989 from the Embassy of El Salvador in Madrid addressed to the Special Representative.

48/ El Salvador on line, 3 July 1989.

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52/ Communication dated 17 October 1989 by the General Command of the FMLN.

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104/ Document E/CN.4/1989/23, para. 109.